

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.SASIDHARAN NAMBIAR

THURSDAY, THE 11TH JANUARY 2007 / 21ST PAUSHA 1928

CRP.No. 413 of 2006(C)

AGAINST THE ORDER DATED 18/06/2006 IN EP 23/2005. IN
OA.1833/2001 of PRL.M.C.,ERNAKULAM
.....

REVN. PETITIONER/JUDGMENT DEBTOR:

K.K.SUNDARAM, KOCHUKARIPPAL HOUSE,
M.S.ROAD,THRIPPUNITHURA, ERNAKULAM.

BY ADV. SRI.KOSHY GEORGE
SRI.P.I.DAVIS

RESPONDENT:/DECREE HOLDER

O,M,RAJU, S/O.LATE O.J.MATHEW,
AMITHA MEDICALS, KARIMUGHAL.

BY ADV. SRI.H.B.SHENOY

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD
ON 11/01/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

C.R.P.413/06

ORDER ON I.A.1672/06DISMISSEDIN C.R.P.413/06

11.1.07

SD/-M.SASIDHARAN NAMBIAR, JUDGE.

/TRUE COPY/

PA TO JUDGE.

M.SASIDHARAN NAMBIAR, J.

C.R.P.NO.413 OF 2006

DATED THIS THE 11th DAY OF JANUARY, 2007

JUDGMENT

Petitioner is second judgment debtor, E.P.23/05 in O.S.1833/01 on the file of Principal Munsiff Court, Ernakulam was filed for realisation of the decree debt. In answer to Rule 37 notice, petitioner filed an objection raising a contention that he has no means to pay the decree debt. Learned Munsiff on the evidence of PW1, the witness examined for decree holder and judgment debtors' as RW1, as per order dated, 18.6.06, holding that petitioner has sufficient means, ordered his arrest. It is challenged in this petition filed under Section 115 of Code of Civil Procedure.

2. Learned Counsel appearing for petitioner was heard.

3. Though Petitioner contended that he has no means, executing Court appreciated the evidence to PW1 and RW1 and found that petitioner is an astrologer and is having sufficient means. On the evidence, it cannot be said that the finding is illegal or irregular warranting interference in exercise of the revisional jurisdiction of this Court under Section 115 of Code of Civil Procedure.

Learned Counsel appearing for petitioner then submitted that

petitioner may be permitted to pay the entire decree debt within six months and he will pay the balance decree debt without failure, before the expiry of six months. On that submission this revision petition is disposed directing executing Court to keep the order of arrest in abeyance for six months, to enable petitioner judgment debtor to pay the entire balance decree debt. If petitioner, judgment debtor fails to pay the balance decree debt as undertaken, executing Court to order his arrest and detention.

M.SASIDHARAN NAMBIAR, JUDGE

Acd

